



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

February 18, 2004

H.R. 2824 **Internet Tobacco Sales Enforcement Act**

As ordered reported by the House Committee on the Judiciary on January 28, 2004

SUMMARY

H.R. 2824 would require persons who make interstate sales of cigarettes or smokeless tobacco to comply with state tax laws. The bill would permit the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATFE) to inspect the sales records of such persons. H.R. 2824 also would increase penalties, including criminal and civil fines, for violations of the laws relating to taxation of cigarettes and smokeless tobacco.

CBO estimates that implementing H.R. 2824 would cost \$50 million over the 2005-2009 period for the ATFE to enforce the bill's provisions, assuming appropriation of the necessary amounts. Enacting the bill could affect direct spending and revenues, but any such effects would not be significant.

H.R. 2824 would impose both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) on certain tobacco distributors and sellers. CBO expects that the direct costs to comply with those mandates would not exceed the annual thresholds established in that act (\$60 million in 2004 for intergovernmental entities, adjusted annually for inflation, and \$120 million in 2004 for the private sector, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2824 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice). In addition to the costs shown below, enacting H.R. 2824 could affect direct spending and receipts. However, we estimate that any such effects would be less than \$500,000 in any year.

	By Fiscal Year, in Million of Dollars					
	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION						
ATFE Spending Under Current Law						
Estimated Authorization Level ^a	827	851	871	897	925	954
Estimated Outlays	783	855	870	894	922	951
Proposed Changes						
Estimated Authorization Level	0	8	10	10	11	11
Estimated Outlays	0	8	10	10	11	11
ATFE Spending Under H.R. 2824						
Estimated Authorization Level	830	859	881	907	936	965
Estimated Outlays	786	863	880	904	933	962
a. The 2004 level is the amount appropriated for that year for ATFE activities. The estimated authorization levels for 2005 through 2009 are CBO baseline estimates that adjust the amounts appropriated for 2004 for anticipated inflation.						

BASIS OF ESTIMATE

CBO assumes that this legislation would be enacted during 2004. CBO estimates that implementing H.R. 2824 would increase ATFE operating costs by \$50 million over the 2005-2009 period. CBO assumes that the necessary amounts will be appropriated near the start of each fiscal year and that spending will follow historical patterns for this effort by the ATFE. In addition, enacting the bill would have an insignificant effect on direct spending and receipts.

Spending Subject to Appropriation

H.R. 2824 would permit the ATFE to inspect the records of persons or businesses that make interstate sales of cigarettes or smokeless tobacco. Based on information from the agency about the level of effort required to perform inspections nationwide, we anticipate that the ATFE would hire roughly 100 persons to carry out the inspections, including field inspectors and managerial and support personnel. Once fully phased-in, CBO estimates that the costs of additional employees and inspections would reach \$10 million annually. For this estimate, we assume that the new positions would be fully staffed midway through fiscal year 2005.

In addition, H.R. 2824 would permit states to bring certain actions in federal courts against violators of the bill's provisions. Based on information from the federal judiciary, however, CBO does not expect any such actions to significantly increase court costs.

Direct Spending and Revenues

Enacting H.R. 2824 could increase collections of civil and criminal fines for violations of the bill's provisions relating to the interstate sales of cigarettes and smokeless tobacco. CBO estimates that any additional collections would not be significant because of the small number of additional cases likely to be affected. Civil fines are recorded as receipts. Criminal fines are recorded as receipts, deposited in the Crime Victims Fund, and subsequently spent.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 2824 contains mandates as defined in UMRA by imposing new requirements on certain tobacco distributors and sellers, including those businesses that sell or deliver tobacco products purchased online, by catalog, or by phone. The requirements would be both intergovernmental and private-sector mandates because such transactions are done by tribal and private-sector entities. The bill would require those entities that distribute tobacco products in interstate commerce to comply with certain requirements regarding reporting, shipping, recordkeeping, and tax collection. These mandates would apply to tribal governments when the tobacco products are sold outside of Indian country and to someone who is not a member of the tribe.

Based on information from government and industry sources, CBO estimates that the total direct costs to comply with those mandates would be small and would fall well below the annual thresholds for both intergovernmental mandates (\$60 million in 2004, adjusted

annually for inflation) and private-sector mandates (\$120 million in 2004, adjusted annually for inflation).

H.R. 2824 would benefit state governments by expanding their authority to enforce cigarette tax collection through the Jenkins Act. This expanded authority would allow states' attorneys general to file suits for both civil and criminal remedies against sellers or distributors who violate this law. This bill also would preserve existing agreements between states and tribal governments regarding cigarette taxes.

PREVIOUS CBO ESTIMATE

On September 24, 2003, CBO prepared a cost estimate for S. 1177, the Prevent All Cigarette Trafficking Act, as reported by the Senate Committee on the Judiciary on July 31, 2003. The two bills share some similar provisions, but S. 1177 also would lower the threshold for the definition of contraband cigarettes (those that have evaded state taxation) from 60,000 to 10,000. In contrast to the estimated cost of \$39 million over the 2005-2008 period for H.R. 2824, we estimated that implementing S. 1177 would cost about \$140 million over the 2004-2008 period for the ATFE to enforce the bill's provisions.

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